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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE GAJENDRA SINGH
ON THE 29th OF DECEMBER, 2023**

CRIMINAL APPEAL No. 434 of 2016

BETWEEN:-

1. **PAWAN S/O RAMESH RATHORE, AGED ABOUT 23 YEARS, VILLAGE - MANA, P.S. KURAWAR, DIST. RAJGARH (BIAORA) (MADHYA PRADESH)**
2. **RAMESH S/O JAGANNATH RATHORE, AGED ABOUT 44 YEARS, VILLAGE MANA, P.S. KURAWAR, DISTRICT RAJGARH (BIAORA) (MADHYA PRADESH)**

.....APPELLANTS

(SHRI RAJESH YADAV - ADVOCATE FOR THE APPELLANTS)

AND

**THE STATE OF MADHYA PRADESH STATION HOUSE
OFFICER THRU. P.S. KURAWAR, DISTT. RAJGARH
BIAORA (MADHYA PRADESH)**

.....RESPONDENTS

**(BY SHRI MUKESH SHARMA - PANEL LAWYER FOR THE RESPONDENTS
STATE)**

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*This appeal coming on for hearing this day, the court passed the
following:*

ORDER

This Criminal appeal has been filed under section 374 (2) of the Cr.P.C. being aggrieved by judgement dated 25.02.2016 passed by Special Judge, SC and ST (Prevention of Atrocities Act) Rajgarh Biaora in Special Case No. 80/2012 whereby the appellants/accused have been convicted under section 323 (2 counts) of the IPC and sentenced to undergo six months R.I. and fine of

Rs. 500/- each count with default stipulations.

2. The facts in brief are that the appellants/accused were tried for the charges under Section 294, 323 (7 counts), 323 read with 34 (7 counts), 324, 324 read with 34, 326, 326 read with 34, 302 alternatively 302 read with 34 of the IPC and under Section 3 (1) (x) and 3(2) (5) of SC & ST (Prevention of Atrocities) Act, 1989 regarding an incident happened on 05.03.2012 at 06:30 PM near the house of Gopal Jatav situated at Gram Mana, Police station Kuravar, District Rajgarh in which Prem was succumbed to injuries and similar other persons were also suffered injuries and regarding which a Crime No. 66/2012 was registered at Police Station Kuravar at District Rajgarh were tried along with two other persons (Rahul and Gajraj). Trial Court convicted appellants/accused under Section 323 (2 counts) of IPC only for voluntarily causing injuries to Gopal (PW-3) and Mahesh (PW-4).

3. Learned counsel for the appellant submit that they are pressing only on the part of sentence.

4. On perusal of paragraph-35 of the impugned judgment the conviction of the appellant accused Pawan and Ramesh for causing voluntarily injury to Gopal and Mahesh under Section 323 (2 counts) of IPC is affirmed.

5. Certificate under Section 28 of CrPC certifies that the appellants/accused Pawan and Ramesh has undergone a total period of custody of three months and 14 days. This period is more than half of the sentence imposed.

6. This appeal is partly allowed and the sentence of imprisonment inflicted on the appellants accused is modified to the period of already undergone i.e three months and fourteen days. The sentence of fine and default stipulation does not call for interference.

7. Record of the court below along with a copy of this order be sent forthwith for information and compliance.

8. Accordingly, criminal appeal stands disposed of.

(GAJENDRA SINGH)
JUDGE

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